

Department of State

TELEGRAM
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TO SECSTATE WASHDC IMMEDIATE 3964
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E. O. 12065: N/A
TAGS: ETRD, GATT, CA
SUBJECT: FIRA REQUEST FOR ARTICLE XXII CONSULTATIONS

FOLLOWING LETTER WAS SENT TO CANADIAN MISSION ON
JANUARY 5:

BEGIN TEXT:

DEAR MR. AMBASSADOR:

MY AUTHORITIES HAVE INSTRUCTED ME TO REQUEST
ON BEHALF OF THE UNITED STATES CONSULTATIONS WITH
THE GOVERNMENT OF CANADA UNDER ARTICLE XXII:1 OF THE
GENERAL AGREEMENT ON TARIFFS AND TRADE WITH REGARD TO
CERTAIN MEASURES TAKEN UNDER THE CANADIAN FOREIGN
INVESTMENT REVIEW ACT (FIRA). THE UNITED STATES IS
CONCERNED ABOUT THE CONSISTENCY OF PRACTICES UNDER
THE FIRA WITH CANADA'S OBLIGATIONS UNDER THE GATT.
- AMONG THE ISSUES OF PRINCIPAL CONCERN TO US, THE
UNITED STATES WISHES TO CONSULT REGARDING THE PRACTICE
UNDER THE FIRA OF ENTERING INTO AGREEMENTS WITH PRIVATE
INDIVIDUALS OR COMPANIES INVESTING IN CANADA TO GIVE
PREFERENCE TO THE PURCHASE OF CANADIAN GOODS OVER
IMPORTED GOODS. WHILE WE ARE AWARE THAT SUCH COMMITMENTS,
HOWEVER NEGOTIATED, ARE CHARACTERIZED BY THE CANADIAN
GOVERNMENT AS "VOLUNTARY" IN ORIGIN, IT IS OUR UNDERSTAND-
ING THAT THEY ARE ENFORCEABLE UNDER CANADIAN LAW ONCE
ONCE THEY ARE APPROVED BY THE CANADIAN GOVERNMENT AS
PART OF AN INVESTMENT PROPOSAL. WE CONSIDER THAT SUCH
LEGALLY ENFORCEABLE COMMITMENTS CONSTITUTE REQUIREMENTS
TO ACCORD TREATMENT TO IMPORTED PRODUCTS LESS FAVORABLE
THAN THAT ACCORDED TO LIKE PRODUCTS OF NATIONAL ORIGIN,
AND THAT THESE REQUIREMENTS ARE THEREFORE CONTRARY TO
CANADA'S OBLIGATIONS UNDER ARTICLE III OF THE GATT.
FURTHER, WE BELIEVE THAT SUCH REQUIREMENTS RAISE QUESTIONS
UNDER OTHER PROVISIONS OF THE GATT.

WE ALSO WISH TO DISCUSS CERTAIN OTHER PRACTICES
UNDER THE FIRA THAT ARE QUESTIONABLE UNDER THE GATT,
INCLUDING EXPORT PERFORMANCE REQUIREMENTS AND LIMITATIONS
ON DISTRIBUTION ACTIVITIES.

WE WOULD ASK THAT SUCH CONSULTATIONS BE HELD IN
MID-JANUARY, OR AS SOON THEREAFTER AS IS MUTUALLY
CONVENIENT. I HAVE SENT A COPY OF THIS REQUEST TO
THE DIRECTOR-GENERAL FOR CIRCULATION TO THE CONTRACTING
PARTIES.

SINCERELY, WARREN A. LAVOREL, DEPUTY CHIEF OF MISSION-
END TEXT. SMITH

State Dept. review completed

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